



Early Journal Content on JSTOR, Free to Anyone in the World

This article is one of nearly 500,000 scholarly works digitized and made freely available to everyone in the world by JSTOR.

Known as the Early Journal Content, this set of works include research articles, news, letters, and other writings published in more than 200 of the oldest leading academic journals. The works date from the mid-seventeenth to the early twentieth centuries.

We encourage people to read and share the Early Journal Content openly and to tell others that this resource exists. People may post this content online or redistribute in any way for non-commercial purposes.

Read more about Early Journal Content at <http://about.jstor.org/participate-jstor/individuals/early-journal-content>.

JSTOR is a digital library of academic journals, books, and primary source objects. JSTOR helps people discover, use, and build upon a wide range of content through a powerful research and teaching platform, and preserves this content for future generations. JSTOR is part of ITHAKA, a not-for-profit organization that also includes Ithaka S+R and Portico. For more information about JSTOR, please contact support@jstor.org.

A Digest of the Law of Maritime Captures and Prizes.
By Henry Wheaton, Counsellor at Law, and Advocate,
New-York, published by R. M. Dermut, and D. D.
Arden, No. 1, City Hotel, Broadway. Forbes and Co.
Printers.—1815.

A Digest of Prize law has long been a desideratum with professional gentlemen. What is written on the subject was dispersed over such a variety of volumes, treatises in different languages, and the reports of our own, that to bring it within the compass of a single book, is rendering 'the state some service.' A lawyer's library, from the lumber of its thousands of volumes, has grown to be so repulsive an object, that writers of Digests are more than ever in requisition to reconcile us to the task of attempting to master whatever of substance it contains. Those are here the most useful labourers, whose exertions most conduce to the saving of labour. Nor is the work humble. Judges of highest ambition have engaged in it. Gilbert and Comyn, Blackstone and Buller. The extensive utility of the end gave dignity to the means; and these men were satisfied that they could not more effectually exalt their ambition into virtue, than by devoting their talents and benevolence to the relief of the profession from that superincumbent weight, which they were sensible oppressed, and which, they had reason to believe, threatened in no very long time to crush it. If books were indeed in their day mischievously many, how much more alarming is the evil now, when a new world has been given to the common law, and the Reports of this hemisphere already vie in voluminousness with those of the other. Yet it seems the increasing evil is destined still to increase. It grows out of our liberties, and is the exuberance of excessive fertility. Excrescencies would be less frequent, from a liberty less rich. Formalities increase, said Montesquieu, in proportion to the value which is set on the honour, fortune, liberty and life of the subject.

These remarks grow out of a review of a new Digest. The compiler has brought to his task assiduity and judgment, discrimination and research. He may not have cited all the authorities that could possibly have been produced, in support of some points, but enough are cited to

settle the law, and the profession will thank him for sparing the rest. With respect to the competence of a belligerent court to condemn prizes while lying in a neutral port, the case of the *Comet*, 5 Rob. 285. might have been added to the cases cited, and this question must now be considered at rest, notwithstanding the very respectable decision of the N. Y. Supreme Court as pronounced by Ch. J. Kent, 1. Johns. 478, and the dissentient opinions in the cases in Cranch, since these cases have since been adopted as law in divers of the Circuits; and while the volume before us was passing the press, they were adopted, in the case of a libel against goods taken from the brigs *Arabella* and *Madeira* and carried to Canton, China, by Story J. who was not of the court when those cases were decided. Extreme convenience first gave rise to the practice which these decisions sanction, and though we agree with Chief Justice Kent, *Scaevolae assentimur*, that courts of this country were not bound by the practice, but were at liberty from the precedents that controlled Sir William Scott, yet we think they were to yield, not indeed to the practice, but the convenience that suggested it. It is alike convenient to us, as to every other maritime people, who have found the convenience imperative. The practice is indeed a deviation from the principle on which admiralty jurisdiction was thought to be founded; but what amounts to the legal notion of necessity justifies this deviation. It is at all events of importance, that on this subject there be but one rule the world over, and more than half the world had already settled it for themselves, before the turn came to us to pass upon the question.

In the first chapter reference is had to the decision of the Supreme Court of the Union in the case, *Brown v. the United States*, and much is extracted from the opinion of the Circuit Judge which that decision overruled. The decree pronounced by the District Judge which that decision affirmed, contained matter pertinent to this chapter, and we regret that the author has not availed himself of the manuscript in this instance, and given this opinion a place, for the same reason he assigns, page 267, for giving place to the address of M. Portalis.

This work is divided into ten chapters, which comprehend very fully the whole of the subject. The appendix might perhaps have been spared, notwithstanding the value of the

six first articles, they having already been published in various works. In some instances citations are made from MS. opinions, since in print, and for the convenience of reference, we supply the places where the passages cited may be found in the printed volume.

Page 29	Emulous, Brown claimant.	See 1. Circ. Ct. Reports, first Circ. 563	
105	Ann Green	Ib.	274
165	The Julia	Ib.	609
174	Liverpool Packet	Ib.	513
219	Per Story J. MS.	Ib.	467
298	Decatur v. Chew	Ib.	506

Croudun et al. v. Leonard is cited p. 275, and the page and volume omitted. It is 4; Cranch 424.

In a work of this nature much original matter is not to be expected. The little here given, makes the reader regret, that the scope of the undertaking would admit of no more. Fairness and fidelity in compilation, precision in connecting the passages compiled, judgment in the division and arrangement, are all that can be expected from a digest, and the expectation is here not in vain. There was little on the subject in the language before, or rather little in any one volume, but what was to be found in the *Law of War*, translated from Bynkershoek by Du Ponceau, or in Lee on captures, an inferior translation of the same work. Mr. Wheaton has collated and condensed whatever could be selected of importance, in various languages, from writers on the law of nations, from the Reports of Judicial decisions, and from the works of eminent civilians. Without any parade of erudition, the writer has endeavoured to satisfy a profession not satisfied with a little learning; and to save others' labour has been laborious himself. His subject has indeed abated much of its interest from the re-establishment of peace. But from its own nature, and the nature of man, the utility of the work is, we fear, permanent, and it should certainly find a place among the permanent authorities of a lawyer's library.